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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re R.T., a Person Coming Under the
Juvenile Court Law.

ALAMEDA COUNTY SOCIAL
SERVICES AGENCY,

Plaintiff and Respondent,

v.

PAULA T. et al.,

Defendants and Appellants.

A147757

(Alameda County
Super. Ct. No. SJ12019365)

In a prior appeal in this juvenile dependency proceeding, this court reversed an order terminating parental rights and remanded the case to the juvenile court for application of the statutory preference for relative placement and consideration of the parents' proposed relinquishment of their child for adoption by designated relatives. (*In re R.T.* (2015) 232 Cal.App.4th 1284.) On remand, the court inquired into the remanded issues of relative placement and adoption and reinstated its earlier order terminating parental rights. We shall affirm the order.

Statement of Facts

The underlying facts are set out in our prior opinion. To briefly summarize, the Alameda County Social Services Agency (agency) filed a juvenile dependency petition (Welf. & Inst. Code, § 300) in July 2012, several days after R.T., a baby boy, was born with drug exposure. (*In re R.T.*, *supra*, 232 Cal.App.4th at p. 1292.) Over father's

objection, the agency placed R.T. in the home of Victoria D., the foster parent of R.T.'s older brother and the mother of three of R.T.'s half-siblings. (*Ibid.*) A combined jurisdictional and dispositional hearing was held in August 2012. (*Id.* at p. 1293.) The parents urged the court to place the child with a paternal aunt. (*Ibid.*) The court adopted the agency's recommendation that placement remain with Victoria and set a section 366.26 permanency planning hearing. (*Ibid.*) At the January 2014 hearing, the court terminated parental rights and ordered R.T. placed for adoption. (*Ibid.*)

In January 2015, this court reversed the order terminating parental rights and remanded the matter for further proceedings. (*In re R.T.*, *supra*, 232 Cal.App.4th at pp. 1308-1309.) In January 2016, following various assessments and hearings, the juvenile court issued a written decision on the remanded issues of relative placement and adoption by designated relatives. The court found that parental relatives would be able to provide a stable and loving environment but that the three and a half year old child's best interest was to remain with foster parents who wished to adopt him, had cared for him since birth, and to whom he was firmly bonded. As to the parents' proposed relinquishment of the child to parental relatives, the court found they had not satisfied all procedural requirements for relinquishment and, also, that relinquishment was not in the child's best interest. The parents separately filed timely notices of appeal.

Discussion

The parents contend the juvenile court abused its discretion in finding that the child's best interest was to remain with foster parents rather than be placed with paternal relatives or relinquished to relatives for adoption.

We discern no abuse of discretion. A psychologist studied the child's attachment to his foster parents and concluded, "To disrupt the attachment relationship between [the child] and the only parents he has ever known, his foster parents, in any way at this stage of [his] development could have a disastrous impact on his immediate and long term psychological health and functioning."

The parents do not deny the disruption a change in placement would cause but argue "the injustice is clear: this situation and 'attachment' between [the child] and the

caregivers was created by the errors of the Agency and juvenile court [in failing to consider relative placement and relinquishment earlier], and then is utilized to keep [the child] from rightful placement with his family.”

There is, unfortunately, a good deal of truth in the parents’ argument. This case reflects the lasting consequences that may result from inappropriate action by the department of social services. Nonetheless, the objective of these proceedings is not to punish the department but to protect the best interests of the minor. As we previously held, the child should not have been placed with foster parents without first considering placement with relatives (*In re R.T.*, *supra*, 232 Cal.App.4th at pp. 1295-1299) but “we cannot unwind the clock” (*id.* at p. 1308). When we remanded the case for further proceedings, we observed that “effective redress may or may not be possible given the passage of time spent with other caretakers and the child’s current best interest” (*id.* at p. 1292) and committed to the juvenile court “the difficult question” of whether the “interests of stability and continuity” must “prevail over familial bonds” as “applied to the circumstances as they exist at the time of the hearing on remand” (*id.* at p. 1308). The juvenile court followed this mandate, carefully considered the child’s best interest, and reasonably relied upon a psychologist’s conclusion that the child has a strong and loving attachment with his foster parents that should not be severed.

We also reject the parents’ argument that the juvenile court disregarded our instructions by considering the issues of relative placement and parental relinquishment without conducting an entirely new permanent plan hearing. (Welf. & Inst. Code, § 366.26.) In the earlier appeal, we considered all issues raised on appeal and found that the juvenile court erred in “disregard[ing] the statutory mandate that preference in the placement of a child removed from the custody of his parents be given to qualified family relatives” and denying the parents “their right to relinquish the child for adoption by relatives without an appropriate assessment of whether relative adoption was in the child’s best interest.” (*In re R.T.*, *supra*, 232 Cal.App.4th at pp. 1291-1292.) We remanded the matter “for further proceedings conducted under proper standards.” (*Id.* at p. 1292.) The juvenile court conducted those proceedings and, upon finding that “[n]one

of the facts or circumstances that the court relied upon in reaching its 366.26 decision have changed” found a new section 366.26 hearing unnecessary. The record contains nothing to suggest that a further hearing would have produced new or different evidence that would affect the outcome. The juvenile court did not err in finding nothing in our prior opinion to compel a superfluous hearing. As unfortunate as the situation may be, we have no choice but to affirm the decision that has now been reached.

Disposition

The order is affirmed.

Pollak, J.

We concur:

McGuiness, P. J.

Siggins, J.